

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

OLIVIA Y., ET AL.

PLAINTIFFS

VERSUS

NO. 3:04CV251

HALEY BARBOUR, AS GOVERNOR OF THE
STATE OF MISSISSIPPI, ET AL.

DEFENDANTS

VIDEOTAPED DEPOSITION OF DEB BIGGERS

TAKEN AT INSTANCE OF PLAINTIFFS
IN THE OFFICES OF BRADLEY ARANT ROSE & WHITE, LLP
JACKSON, MISSISSIPPI
APRIL 17, 2006
BEGINNING AT APPROXIMATELY 9:00 A.M.

APPEARANCES NOTED HEREIN.

REPORTED BY: Laurie Abraham
Court Reporter and Notary Public
CSR #1143

123 Plantation Drive
Madison, Mississippi 39110
(601) 856-7555



STATE-WIDE REPORTERS (800) 372-3376

<p style="text-align: right;">Page 10</p> <p>1 formerly the Department of Economic and Community 2 Development.</p> <p>3 Q. And what was the job that you referred 4 to in 1996?</p> <p>5 A. In 1996 I moved to the director of the 6 Office of Budget and Fund Management, my current 7 position.</p> <p>8 Q. And have you been the director of the 9 Office of Budget and Fund Management since 1996?</p> <p>10 A. I have.</p> <p>11 Q. What is the Department of Finance and 12 Administration?</p> <p>13 A. DFA is the administrative agency in 14 state government that performs all of the 15 financial matters necessary for state government, 16 including the production of warrants or checks, 17 if you will.</p> <p>18 BY MR. PISKORA: Could you read back 19 the answer.</p> <p>20 (Reporter reads back answer.)</p> <p>21 Q. Okay. And when you say that DFA is the 22 administrative agency responsible for these 23 things, are you saying that there's no agency of 24 Mississippi state government that is more senior 25 to DFA in regard to fiscal matters?</p>	<p style="text-align: right;">Page 12</p> <p>1 A. Our function is to administer the 2 enacted budget, the budget that is passed by the 3 legislature.</p> <p>4 Q. Is that it?</p> <p>5 A. We also serve as the Governor's budget 6 office insofar as the preparation of his 7 executive budget recommendation.</p> <p>8 Q. And do you monitor the budget after 9 it's been put in place?</p> <p>10 A. That is our function to --</p> <p>11 Q. Okay.</p> <p>12 A. -- to administer and control the 13 enacted budget.</p> <p>14 Q. And in regard to the budgeting process 15 in -- strike that.</p> <p>16 When you're developing a budget, it's 17 your responsibility to create a budget that 18 reflects the Governor priorities, correct?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Okay. And in developing the budget, do 21 you do forecasting?</p> <p>22 A. Forecasting of --</p> <p>23 Q. Do you do any forecasting?</p> <p>24 A. And if I may clarify, what we develop 25 and assist the Governor with is the development</p>
<p style="text-align: right;">Page 11</p> <p>1 BY MR. FORTENBERRY: Object to form. 2 You can go ahead and answer.</p> <p>3 A. I'm not sure I understand your 4 question. Could you -- could you restate it.</p> <p>5 Q. Sure. What I'm trying to get at is, 6 there are other agencies that we've had some 7 testimony from -- for instance, Peter Boulette 8 testified from the office of budget and 9 accounting in DHS, and he testified at some 10 point -- and I'm just giving you background. I 11 don't want to be quoting it exactly -- testified 12 that he worked with your office in regard to the 13 budget and fiscal matters in some regard. And 14 I'm just wondering, is there a -- is there a 15 department that is more senior to the Department 16 of Finance and Administration in Mississippi 17 state government that DFA ultimately reports to?</p> <p>18 A. We are an executive agency. We are 19 under the governor's policy direction.</p> <p>20 Q. Okay. And so the only person that DFA 21 would report to would be the Governor?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Can you tell me what is the 24 responsibility of the Office of Budget and Fund 25 Management.</p>	<p style="text-align: right;">Page 13</p> <p>1 and publication of his budget recommendation.</p> <p>2 Q. I understand your clarification.</p> <p>3 A. Okay.</p> <p>4 Q. And we'll see some documents that I 5 think will make that quite clear.</p> <p>6 A. (Witness nods head affirmatively.)</p> <p>7 Q. But what I -- I think I asked a 8 slightly different question. The question was, 9 in preparing the budget recommendation of the 10 Governor, do you do any forecasting?</p> <p>11 A. We do forecast revenues and assist the 12 state fiscal officer insofar as forecasting 13 potential revenues, general fund revenues for the 14 state. That is one of the components of the 15 preparation of the legislative budget 16 recommendation and the executive budget 17 recommendation.</p> <p>18 Q. Okay. And do you do any forecasting 19 other than the state revenues?</p> <p>20 A. Forecasting, no, sir.</p> <p>21 Q. No. Okay. And in regard to the state 22 revenue forecast, who do you work with to develop 23 that?</p> <p>24 A. We work internally within DFA. Our 25 office will prepare our best projections. The</p>

<p style="text-align: right;">Page 18</p> <p>1 question.</p> <p>2 Does -- does the Office of Budget and</p> <p>3 Fund Management have any involvement in the</p> <p>4 preparation of this estimate?</p> <p>5 A. On some years, we prepare an estimate</p> <p>6 at the same time that Mr. Lucius prepares an</p> <p>7 estimate; not in all years.</p> <p>8 Q. And why does your office prepare a</p> <p>9 separate estimate?</p> <p>10 A. To compare.</p> <p>11 Q. And what happens if there's some</p> <p>12 discrepancy between the two estimates?</p> <p>13 A. Well, there generally is a difference</p> <p>14 between the two estimates because we do it by</p> <p>15 source of revenues, source of general fund</p> <p>16 revenue by type of taxes. So -- and I mentioned</p> <p>17 the range earlier. At that -- at that point the</p> <p>18 state fiscal officer has a range to look at when</p> <p>19 working with the revenue estimating committee</p> <p>20 insofar as adopting a revenue estimate.</p> <p>21 Q. And in what years did the Office of</p> <p>22 Budgets and Fund Management prepare a separate</p> <p>23 estimate than the bond advisory division?</p> <p>24 A. I would say, if memory serves me</p> <p>25 correctly, the last two.</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. And do you do any forecasting of the</p> <p>2 amount of federal or special funds that the state</p> <p>3 would be able to draw down?</p> <p>4 A. No, sir. The forecast of federal funds</p> <p>5 is done, generally speaking, on an agency level</p> <p>6 and state funds are tracked and reported --</p> <p>7 state -- special fund balances are recorded by</p> <p>8 the State Treasurer's office.</p> <p>9 Q. I understand your answer. So in this</p> <p>10 case we're dealing with DHS, have you ever seen a</p> <p>11 forecast of the amount of federal funds that</p> <p>12 could be drawn down in any given year based on</p> <p>13 their level of state funding?</p> <p>14 A. Their federal funds forecast, if you</p> <p>15 will, is a part of their Mississippi budget</p> <p>16 request.</p> <p>17 Q. I understand your answer, but there's</p> <p>18 been some testimony in this case that the federal</p> <p>19 or special fund element of the budgetary request</p> <p>20 is not forecast. So I'm wondering, have you seen</p> <p>21 any document whatsoever about a calculation of</p> <p>22 how much the department could realistically draw</p> <p>23 down in federal funds?</p> <p>24 A. I have not seen a calculation, per se.</p> <p>25 In every budget request, an agency presents their</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. And if you could, just generally</p> <p>2 describe to me how the two estimates get</p> <p>3 reconciled.</p> <p>4 A. The numbers are placed on a piece of</p> <p>5 paper. The state fiscal officer takes those to a</p> <p>6 meeting and in the discussion of the revenue</p> <p>7 estimating committee, which is a six-member</p> <p>8 group, each person presents their ideas insofar</p> <p>9 as revenue and then they come to a consensus.</p> <p>10 Q. So no consensus is reached at DFA prior</p> <p>11 to its admission to this committee?</p> <p>12 A. No, sir.</p> <p>13 Q. Okay.</p> <p>14 BY MR. PISKORA: Just put a request on</p> <p>15 the record. I'm not sure that we have</p> <p>16 received these general estimates of the state</p> <p>17 fund so I'd call for their production now.</p> <p>18 BY MR. FORTENBERRY: And as in the</p> <p>19 previous depositions, just send me a request</p> <p>20 so I'll know what it is.</p> <p>21 BY MR. PISKORA: Fair enough.</p> <p>22 Q. We've been talking generally about the</p> <p>23 estimates of state fund revenues that might be</p> <p>24 available for a future budget request, correct?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 21</p> <p>1 general funds request and their federal funds</p> <p>2 request, including a special fund detail that</p> <p>3 indicates anticipated revenues of federal and</p> <p>4 other special funds.</p> <p>5 Q. I think I understand your answer, but</p> <p>6 let me just try and clarify it for myself. When</p> <p>7 you receive the agencies' budget requests which</p> <p>8 includes the special fund detail and the detail</p> <p>9 of federal funds that would be part of those</p> <p>10 special funds, is it your understanding that the</p> <p>11 agency has done some sort of forecast or</p> <p>12 calculation that this is how much special funds</p> <p>13 they could be able to draw down with the budget</p> <p>14 allocation they're requesting in state funds?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Okay. Can I show you a document now</p> <p>17 that I got just off the website. I'm going to</p> <p>18 have the court reporter mark it so we just have</p> <p>19 it in the record.</p> <p>20 BY MR. PISKORA: And, Rusty, I think</p> <p>21 that we were just continuing the deposition</p> <p>22 exhibits. And I was advised that we are</p> <p>23 maybe up to 178. Do you have a different</p> <p>24 number?</p> <p>25 BY MR. FORTENBERRY: We had two</p>

<p style="text-align: right;">Page 62</p> <p>1 A. I think the major component of the 2 request was for social workers, but there was 3 another component that was not. I just do not 4 recollect what that was for.</p> <p>5 Q. Okay. And when the agency submits a 6 revised budget request, don't they have to give a 7 justification for the revision?</p> <p>8 A. They do.</p> <p>9 Q. And did they do so in this case?</p> <p>10 A. They – DHS never revised its 11 Mississippi budget request, officially.</p> <p>12 Q. Okay. How did they do it?</p> <p>13 A. When – in planning for the council 14 meeting, the Governor had asked them if they had 15 any need to make any revisions in their request. 16 So which is not uncommon during the session, they 17 did an additional request but never officially 18 revised their budget request form.</p> <p>19 Q. I see. So the budget request form that 20 usually contains a justification for budget 21 increases was never revised?</p> <p>22 A. Right.</p> <p>23 Q. Okay.</p> <p>24 A. Not the standard form, no, sir.</p> <p>25 Q. Well, was another form submitted?</p>	<p style="text-align: right;">Page 64</p> <p>1 answering any questions that they have about 2 their needs or their requests.</p> <p>3 Q. Okay. And would it be fair to say, 4 then, that the requests in total -- the amount of 5 the requests in total that your office receives 6 from the various state agencies often goes above 7 the amount of money that the state has to fund 8 the various agencies?</p> <p>9 A. (Witness nods head affirmatively.)</p> <p>10 Q. Is that correct?</p> <p>11 A. Very much so.</p> <p>12 Q. Is that very common?</p> <p>13 A. Annually.</p> <p>14 Q. Every year this happens?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Okay. And you started speaking a 17 little bit about an analysis of critical needs. 18 Is that correct?</p> <p>19 A. (Witness nods head affirmatively.)</p> <p>20 Q. What are -- what are the -- withdrawn. 21 Who does the critical needs analysis?</p> <p>22 A. The critical needs analysis is compiled 23 by the budget analysts from what is presented in 24 the Mississippi budget request documents.</p> <p>25 Q. Okay. And so would it be fair to say</p>
<p style="text-align: right;">Page 63</p> <p>1 A. They utilized an Excel spreadsheet. 2 The executive agencies utilized an Excel 3 spreadsheet to show what their original MBR 4 request was and any revisions that they had to 5 make during the session.</p> <p>6 Q. Okay. Can you just tell me generally 7 the process that your office goes through after 8 it receives all the budget requests from the 9 various state agencies in accumulating those to 10 form an executive budget?</p> <p>11 A. What we do is, we divide up the budget 12 requests by analysts. The analysts go through 13 and look at critical needs, look at nonrecurring 14 expenditures from one year to the next. In years 15 where the revenues have not kept up -- or we've 16 had revenue shortfalls, doing the budget is a 17 little different than in years when we have a lot 18 of available revenue to work with.</p> <p>19 So for the past several years, we've 20 looked at trying to maintain level funding for 21 agencies and then taking a very limited pool of 22 resources and trying to address the critical 23 needs posed in the recommendation. We furnish a 24 copy of the budget request to the policy advisors 25 in the Governor's office and work with them in</p>	<p style="text-align: right;">Page 65</p> <p>1 that there are various budget analysts working on 2 the various divisions' budget requests?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And we had talked about Pam Davis as 5 being the one who has been addressing the DHS 6 budget requests in the more recent years, 7 correct?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Okay. What has your office concluded 10 were the critical needs of the Division of Family 11 and Children's Services?</p> <p>12 A. In recent years, we – the Governor has 13 advocated that the agencies should be lump 14 summed, and insofar as funding, we recommended 15 that all agencies, if possible, be lump summed to 16 have maximum flexibility so that DHS, in the case 17 of having multiple budgets within it, could 18 utilize its funds in whichever budget they needed 19 to in order --</p> <p>20 Q. And they –</p> <p>21 A. I'm sorry.</p> <p>22 Q. Go ahead. You can complete your 23 answer. I thought I cut you off a little bit.</p> <p>24 A. That's fine.</p> <p>25 Q. I understand that the -- the executive</p>

<p style="text-align: right;">Page 66</p> <p>1 branch has been advocating for a lump-sum-type 2 budget. And we'll get to the lump-sum issue a 3 little bit later, but my question went more to 4 the critical needs analysis. Has the Office of 5 Budget and Fund Management done a critical needs 6 analysis of DHS and, more specifically, the 7 Division of Family and Children's Services?</p> <p>8 A. Not apart from their Mississippi budget 9 request.</p> <p>10 Q. I'm not sure I understand the question, 11 but do you mean not other than what you receive 12 in the form of the DHS budget request package?</p> <p>13 A. Yes, sir.</p> <p>14 Q. So to the extent the agency has needs, 15 you would expect to see it in the budget request 16 package, right?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And the budget analyst, then, would 19 determine which are really the critical needs?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And is the budget analyst looking for 22 things to cut, generally?</p> <p>23 A. Not generally speaking. In years where 24 revenues were not meeting estimates, budget cuts 25 would be something we would have to review.</p>	<p style="text-align: right;">Page 68</p> <p>1 excess of the revenue estimates, correct?</p> <p>2 A. The Governor is permitted to recommend 3 other forms of revenues, but they have to be 4 submitted separate from his executive budget 5 recommendation.</p> <p>6 BY MR. PISKORA: Could you read back 7 the answer.</p> <p>8 (Reporter reads back answer.)</p> <p>9 Q. Okay. So in regard to his executive 10 budget recommendation, doesn't the Governor 11 submit an executive recommendation that is in 12 line with the revenue estimates that were 13 developed by LBO and your office?</p> <p>14 A. Not revenue estimates developed by us. 15 Revenue estimates emanating and approved by -- or 16 the recommendation of the revenue estimating 17 committee.</p> <p>18 Q. Okay. Let me try to just close the 19 loop, then. Once the revenue estimating 20 committee has determined what the revenue 21 estimate should be, whether or not your office 22 agrees with that or not, does the Governor then 23 submit a budget that's in line with those 24 estimates?</p> <p>25 A. He submits an executive budget</p>
<p style="text-align: right;">Page 67</p> <p>1 Q. Okay. And in years where -- well, I 2 thought that you had testified earlier that it 3 seems like almost every year that budget requests 4 exceed the amount of estimated general funds, 5 correct?</p> <p>6 A. They do.</p> <p>7 Q. Okay. So wouldn't the budget analysts 8 have to figure out a way to pare down all the 9 budget requests to bring it in line with the 10 estimated revenue guidance?</p> <p>11 A. From the Legislative Budget Office 12 standpoint, that is correct, and they are 13 required to utilize or maintain notes of what 14 they are paring down on the budget requests.</p> <p>15 Q. Okay. So on the -- in the formulation 16 of the executive budget, does the Governor often 17 submit a budget that he is requesting state fund 18 allocations in excess of what your office has 19 determined was the amount of revenues available 20 for the upcoming fiscal year?</p> <p>21 A. He has to rely upon the same revenue 22 estimate as the joint legislative budget 23 committee.</p> <p>24 Q. So I think your answer is that the 25 Governor does not submit a budget that's in</p>	<p style="text-align: right;">Page 69</p> <p>1 recommendation based upon the consensus estimate.</p> <p>2 Q. And he doesn't submit a budget that's 3 over the amount of those estimates?</p> <p>4 A. Not his executive budget</p> <p>5 recommendation, no, sir.</p> <p>6 Q. Okay. And so when the various budget 7 requests come in and if you were to add up all 8 the dollars that the various agencies are 9 requesting and it's more than the revenue 10 estimate, how does the Governor go about paring 11 down the various requests so that his executive 12 budget is in line with the revenue estimate?</p> <p>13 A. He reviews -- I say he. His policy 14 advisors review the MBRs and make 15 recommendations.</p> <p>16 Q. Okay. Is your office at all involved 17 in making any recommendations to the Governor 18 about necessary cuts?</p> <p>19 A. When you say cuts --</p> <p>20 Q. Well, I understand your clarification. 21 The -- the budgets that are submitted -- I'm 22 sorry, withdrawn.</p> <p>23 I think that we got to the point where 24 in most years, the budget requests from the 25 various agencies, if you added them up, would</p>

<p style="text-align: right;">Page 70</p> <p>1 exceed the revenue estimates. Is that correct? 2 A. That's correct. 3 Q. Okay. And I'm trying to figure out how 4 the Governor gets his budget in line with the 5 revenue estimates. Do you understand? 6 A. Uh-huh (affirmative). 7 Q. And some money that is being requested 8 is not going to be able to be allocated because 9 there just isn't enough money to go around. Do 10 you agree? 11 A. That's correct. Not enough money to go 12 around to accommodate requests. Revenues which 13 are above and beyond, if you start in one year 14 and you have revenue of X and the subsequent 15 years the revenue of X plus a million, then you 16 only -- it's just like your checking account. 17 You only have a million dollars to work with to 18 divide amongst the requests by the numerous 19 budgets and agencies. 20 Q. I think -- I think I understand your 21 answer, but let me just try and clarify it. 22 You're saying that, generally, you get what you 23 got last year and we'll talk about the little 24 difference of additional funding that you might 25 be requesting. Is that correct?</p>	<p style="text-align: right;">Page 72</p> <p>1 amount of money. 2 A. It doesn't. 3 Q. Well, the executive budget has to make 4 a determination that's ultimately submitted, 5 correct? 6 A. It's a recommendation. 7 Q. Exactly. It's a recommendation. 8 A. (Witness nods head affirmatively.) 9 Q. Now, as to that recommendation, that's 10 what I'm trying to get at. As to the executive 11 budget recommendation, who is deciding how much 12 each agency gets in terms of funding? 13 A. Recommendations are made to the policy 14 advisors. 15 Q. Who are the policy advisors? 16 A. Jim Perry. 17 Q. Okay. So you mean the Governor's 18 policy advisors? 19 A. Yes, sir. 20 Q. Okay. And recommendations are made by 21 who? 22 A. By the Office of Budget and Fund 23 Management. 24 Q. Okay. So your office develops 25 recommendations to the Governor's office's policy</p>
<p style="text-align: right;">Page 71</p> <p>1 A. Any revenue that would be in addition 2 to prior year would be available to address 3 multiple agency needs. 4 Q. I understand that. And multiple 5 agencies are asking for that additional -- 6 A. That's correct. 7 Q. And my question is, how is it 8 determined in the executive budget which agency 9 gets additional funding? 10 A. There would be a review of the critical 11 needs as presented by the agencies and then 12 whatever revenues above and beyond prior year 13 would be available to address some, probably not 14 all of those needs. 15 Q. I understand your answer. I think 16 we're getting to it now. Who is doing that 17 review? 18 A. The review of the agencies, the 19 critical needs? 20 BY MR. PISKORA: Can you go back and 21 read her last answer. 22 (Reporter reads back answer.) 23 Q. Okay. I think I need clarified just a 24 couple points. I'm not understanding how the 25 executive budget decides who is getting what</p>	<p style="text-align: right;">Page 73</p> <p>1 advisors concerning what should be the allocation 2 of funding in regard to the executive budget 3 recommendation, correct? 4 A. What the recommendation should be. 5 Q. I'm sorry. We're talking about the 6 recommendation, right? 7 A. Right. The recommendation is not an 8 allocation of funding. 9 Q. Oh, I understand what you're saying. 10 A. (Witness nods head affirmatively.) 11 Q. But it -- the recommendation contains 12 proposed allocations, correct? 13 A. Yes, sir. 14 Q. Okay. In regard to the recommendation, 15 the executive budget recommendation, is it 16 correct that your office provides guidance and 17 recommendations to the Governor's policy 18 advisors? 19 A. Yes, sir. 20 Q. All right. And who in your office 21 makes those recommendations? 22 A. Generally, I do. 23 Q. Okay. And what is the basis for your 24 recommendations? 25 A. The analysts' review of critical needs.</p>

<p style="text-align: right;">Page 74</p> <p>1 Q. Okay. So would it be fair to say that 2 in each and every year you review, at the very 3 least, the analysts' review of the various 4 agencies' critical needs in regard to your 5 recommendations to the Governor's policy advisors 6 as to what should go into the executive budget 7 recommendation?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Okay. And in reviewing the analysts' 10 analysis of the agencies' budget requests, do you 11 see any documents or do you just have a meeting?</p> <p>12 A. Sometimes both.</p> <p>13 Q. Okay. And let's take DHS just as an 14 example. Do you speak to the budget analyst as 15 to the amount of funding that DHS is requesting 16 for various line items of their budget request?</p> <p>17 A. It depends. I don't recollect 18 reviewing major objects or line items for DHS 19 from the analysts.</p> <p>20 Q. Well, do you ever discuss, in 21 formulating your recommendations to the 22 Governor's policy advisors, the amount of money 23 that DHS would be requesting for salaries?</p> <p>24 A. Do we ever review that with them? Was 25 that your question? I'm sorry. I didn't</p>	<p style="text-align: right;">Page 76</p> <p>1 believe, that they did not have the funds for the 2 PINs.</p> <p>3 Q. What about '05?</p> <p>4 A. '05, DHS was a lump-sum budget.</p> <p>5 Q. So does that mean that you didn't 6 review their critical needs in regard to 7 additional funding for staffing?</p> <p>8 A. No, sir. I – I'm just saying that in 9 '05 they were a lump-sum budget. The legislature 10 gave them lump-sum authority so they could have 11 put every dollar into salaries for Family and 12 Children's Services if they chose.</p> <p>13 Q. I understand they could have done that 14 in a hypothetical world, but they couldn't do 15 that in a practical world.</p> <p>16 A. Right.</p> <p>17 Q. Right. So I'm getting back to the 18 question, in the practical reality of the budget 19 request, even under a lump-sum budget, did you 20 review in 2005 whether or not additional funds 21 should go to DHS for the Division of Family and 22 Children's Services for additional salaries?</p> <p>23 A. I do not recollect. That was in 2004.</p> <p>24 I do not recollect that year.</p> <p>25 Q. Okay. Would it be fair to say that you</p>
<p style="text-align: right;">Page 75</p> <p>1 understand.</p> <p>2 Q. I'm getting to your analysis and 3 recommendations to the Governor's policy 4 advisors. And I'm asking, do you review what DHS 5 is requesting in regard to salaries with your 6 budget analysts prior to –</p> <p>7 A. Probably so.</p> <p>8 Q. Okay. And what other budgetary 9 elements do you review with your budget analysts 10 prior to making your recommendations to the 11 Governor's policy advisors?</p> <p>12 A. We look at what the agency has 13 requested insofar as their critical needs.</p> <p>14 Q. Okay. And since you're doing this 15 review, can you just tell me what is DHS's 16 critical needs in regard to the Department of 17 Family and Children's Services?</p> <p>18 A. It's my understanding that they need 19 additional funds to fund positions that – where 20 the positions have been appropriated, but the 21 funds were not made available to fill the 22 positions.</p> <p>23 Q. Okay. And how long have you had that 24 understanding?</p> <p>25 A. Current fiscal year '07; '06, I</p>	<p style="text-align: right;">Page 77</p> <p>1 understand that the Division of Family and 2 Children's Services is underfunded?</p> <p>3 A. (Witness nods head affirmatively.) I 4 would say that.</p> <p>5 Q. Okay. And how -- how many years have 6 they been underfunded to your recollection?</p> <p>7 A. Insofar as state agencies are 8 concerned, since state agencies, including Family 9 and Children's Services, during the years of 10 revenue shortfalls, most state agencies, 11 including DHS, I believe, will say that they have 12 been underfunded since we had revenue shortfalls.</p> <p>13 Q. And – and did the revenue shortfalls 14 start in 2000?</p> <p>15 A. 2000.</p> <p>16 Q. Okay. You said that the state agencies 17 would say they're underfunded, but was it the 18 position of your office that those agencies – 19 withdrawn.</p> <p>20 Was it the position of your office that 21 DHS and, more specifically, DFCS have been 22 underfunded since 2000?</p> <p>23 A. If you look at the amount requested by 24 the agency versus what the legislature 25 appropriated and if you say that their request is</p>

<p style="text-align: right;">Page 78</p> <p>1 the amount that they needed, then the answer is 2 yes.</p> <p>3 Q. Okay. So the amount that they 4 requested, you're presuming, is the amount that 5 they need, correct?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And so if they got less, then they're 8 underfunded, correct?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Okay. In regard to your 11 recommendations to the policy advisors in the 12 Governor's office about formulating the executive 13 budget recommendation, do you ever have any 14 analysis directly from the head of DFCS in regard 15 to figuring out what critical needs are?</p> <p>16 A. No, sir.</p> <p>17 Q. And so you're relying entirely on the 18 DHS budget request that has been submitted?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And that's a consolidated DHS request, 21 correct?</p> <p>22 A. The individual programs are submitted 23 by program, and there is a roll-up document, a 24 consolidated document.</p> <p>25 Q. I'm going to jump back to Exhibit 181</p>	<p style="text-align: right;">Page 80</p> <p>1 you see that?</p> <p>2 A. Yes, sir.</p> <p>3 Q. What is that summary document?</p> <p>4 A. It is the spreadsheet that I referenced 5 earlier which shows the agency -- agencies, state 6 funding, the prior fiscal year and the executive 7 budget recommendation for the fiscal year at hand 8 and includes the Governor's transmittal letter to 9 the legislature.</p> <p>10 Q. Okay. And so a separate summary 11 document is then prepared for the LBO 12 recommendation?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And that would be done outside of your 15 offices, correct?</p> <p>16 A. Yes, sir. That's done by the 17 Legislative Budget Office for the joint 18 legislative budget committee.</p> <p>19 Q. Okay. And who prepares the summary 20 document for the executive budget recommendation?</p> <p>21 A. We work with the Governor's office to 22 prepare the spreadsheet and we also work with 23 them to prepare the transmittal letter.</p> <p>24 Generally speaking, Mr. Perry.</p> <p>25 Q. Mr. Perry at the Governor's office?</p>
<p style="text-align: right;">Page 79</p> <p>1 again.</p> <p>2 A. Okay.</p> <p>3 Q. We were talking about the second 4 paragraph, the first sentence which was, When the 5 agencies' budget requests are submitted, both LBO 6 and DFA review the requests.</p> <p>7 A. Uh-huh (affirmative).</p> <p>8 Q. Remember that?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And I guess my question to you is, do 11 you review the requests in conjunction with the 12 LBO or separately?</p> <p>13 A. Separately.</p> <p>14 Q. Okay. And then it goes on a few 15 sentences later, The executive and legislative 16 offices develop their own recommendations for the 17 amounts to be appropriated to each agency within 18 the estimated available funds. Do you see that?</p> <p>19 A. Yes, sir.</p> <p>20 Q. That's correct?</p> <p>21 A. Yes, sir.</p> <p>22 Q. That's accurate?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Okay. It goes on, A summary document 25 is then prepared of these recommendations. Do</p>	<p style="text-align: right;">Page 81</p> <p>1 A. Yes, sir.</p> <p>2 Q. And would you have copies of these -- 3 these letters and spreadsheets?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And do you call them anything in 6 particular other than the spreadsheet?</p> <p>7 A. Executive budget recommendation.</p> <p>8 Q. Summary?</p> <p>9 A. Uhm --</p> <p>10 Q. Or is it the whole thing attached?</p> <p>11 A. The spreadsheet is actually entitled 12 "Executive Budget Recommendation."</p> <p>13 Q. Okay. And who in your offices would 14 maintain these documents?</p> <p>15 A. All of us.</p> <p>16 Q. Everyone keeps them?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Fair enough.</p> <p>19 BY MR. PISKORA: Just put on the record 20 that we would request that those documents be 21 produced for 2000 to the present.</p> <p>22 Q. And to the extent that the Legislative 23 Budget Office prepares a separate and distinct 24 recommendation, does this summary document do any 25 analysis comparing the two different budgets?</p>

Page 102	Page 104
1 they go about getting the revision? 2 A. If they were doing it within the limits 3 prescribed in general law or the appropriation 4 bill, then they would submit either a transfer 5 form -- well, you're talking about a transfer -- 6 a transfer form and a new form Z-1 to our office. 7 Q. Okay. And how does DHS go about 8 requesting a deficit allocation? 9 A. They request that by formulating a 10 letter to the chairman of the appropriations 11 committees requesting additional funding and 12 justifying what it's for, but it's a request of 13 the legislature. 14 Q. Okay. In regard to the budgets, the 15 recommendations and in regard to what the 16 agencies and the divisions are requesting, 17 there's the state general fund component and then 18 there's also this special fund component, 19 correct? 20 A. Uh-huh (affirmative). 21 Q. What, if any, review do you do of the 22 special fund component? 23 A. We look at all components in the 24 budget. 25 Q. Okay. And would it be fair to say that	1 A. No, sir, because we assume that when 2 they prepare that special funds detail that they 3 are projecting the revenues that they anticipate 4 for that fiscal year. That is their best 5 estimate. 6 Q. Fair enough. So you were talking about 7 page 3, DHS115663? 8 A. Uh-huh (affirmative). 9 Q. And I guess the first one is social 10 services block grant. Do you see that, Title 20? 11 A. Yes, sir. 12 Q. Have you ever seen any analysis by DHS 13 showing how they would realize the estimates that 14 are provided here in Column 2? 15 (Witness examines document.) 16 Q. I'll rephrase the question. You see 17 that if we even just take the first one, social 18 services block grant -- 19 A. Uh-huh (affirmative). 20 Q. -- it has an increase between the 21 actual fiscal year 2005 and the estimated fiscal 22 year 2006 and it's approximately 600,000. Do you 23 see that? 24 A. Yes, sir. 25 Q. My question is, have you ever seen any
Page 103	Page 105
1 when you get a DHS budget request that includes a 2 special fund component that it's your 3 understanding that the division would be able to 4 realize that amount of special funds? 5 A. It's our understanding from the 6 Mississippi budget request -- Exhibit 164 is an 7 example -- 8 Q. Yeah. 9 A. -- that when the agency prepares its 10 special funds detail -- that's page 3 or 11 DHS115663 -- that they are showing insofar as 12 both federal and nonfederal other special funds 13 their requested revenues for the year -- in this 14 case, FY '07 and that is their estimate. 15 Q. But do you understand their estimate to 16 be the amount that they can realize? 17 A. It's our understanding that that is 18 their estimate of revenues for FY '07. 19 Q. Okay. And have you ever -- withdraw 20 the question. 21 In your analysis of the DHS budget 22 request and in your analysis of the critical 23 needs evaluation, have you ever contacted DHS to 24 discuss whether or not the estimates of the 25 special funding levels were realizable?	1 analysis of how DHS has calculated that they 2 would get approximately 600,000 more in Title 20 3 social services block grant funding? 4 A. No, sir. 5 Q. Okay. Looking at this same exhibit 6 which is Exhibit 164, if you go to the third page 7 in, which is page 1, really, it's a spreadsheet 8 that shows various columns in the budgeting line 9 items and it has actual expenses, 2005; estimated 10 expenses, 2006; and requested for 2007. Do you 11 see that? 12 A. Yes, sir. 13 Q. Do you ever compare what was the actual 14 expenses with the earlier years, what DHS said 15 that they would be able to draw down in special 16 funds? 17 A. No, sir. 18 Q. Okay. We did discuss very early in the 19 morning that one of the things that your office 20 does in addition to the preparation of the 21 budgets is then it monitors the expenditures. Is 22 that correct? 23 A. Uh-huh (affirmative). 24 Q. And again, is that your particular 25 office that does that?

<p style="text-align: right;">Page 154</p> <p>1 prudent thing anyway.</p> <p>2 Q. With respect to state contracts,</p> <p>3 whether it be for leases or anything else, are</p> <p>4 you familiar whether the state requires a</p> <p>5 provision in there to opt out if the legislature</p> <p>6 decides not to appropriate funds?</p> <p>7 A. Yes, sir. That's very standard.</p> <p>8 Q. And why is that provision there?</p> <p>9 A. Because budgeting is done on a</p> <p>10 year-by-year basis, and anything that encompasses</p> <p>11 more than one year, you really don't know what</p> <p>12 the future years are going to be, so that</p> <p>13 funding-out clause is necessary.</p> <p>14 BY MR. FORTENBERRY: That's all I have.</p> <p>15 REEXAMINATION BY MR. PISKORA:</p> <p>16 Q. I just have a few more questions on</p> <p>17 redirect. I think that you had testified earlier</p> <p>18 about the special funds. Do you remember that?</p> <p>19 A. (Witness nods head affirmatively.)</p> <p>20 Q. And you clarified a little bit on</p> <p>21 direct here. And my question to you is, we were</p> <p>22 looking at the special fund detail of the budget</p> <p>23 request. Do you remember that?</p> <p>24 A. Uh-huh (affirmative).</p> <p>25 Q. And I had asked you a question of</p>	<p style="text-align: right;">Page 156</p> <p>1 fund equivalents are used for matching purposes,</p> <p>2 then if you have a cut in general funds, it's</p> <p>3 possible that you would lose some federal funds.</p> <p>4 Q. Right. And don't most of the federal</p> <p>5 programs match it at least one to one or</p> <p>6 sometimes even better than one to one?</p> <p>7 A. I don't know about most, but generally,</p> <p>8 you know, there's a reasonable match.</p> <p>9 Q. Okay. And then I think you testified a</p> <p>10 little bit about that, you know, policy decisions</p> <p>11 have to be made in regard to the limited</p> <p>12 resources that Mississippi has in regard to their</p> <p>13 state general funds.</p> <p>14 A. (Witness nods head affirmatively.)</p> <p>15 Q. And my question to you is, isn't</p> <p>16 that -- an analysis of the various agencies</p> <p>17 throughout the state and what they're requesting</p> <p>18 part of what your office does prior to the</p> <p>19 submission of the executive budget</p> <p>20 recommendation?</p> <p>21 A. I'm sorry. Could you repeat that one</p> <p>22 more time.</p> <p>23 Q. I think that you said that there were</p> <p>24 agency heads camped out. There are a limited</p> <p>25 amount of funds. Everybody's fighting over a</p>
<p style="text-align: right;">Page 155</p> <p>1 whether or not you had made any sort of analysis</p> <p>2 of whether or not this special fund -- the amount</p> <p>3 of special fund set forth on the special fund</p> <p>4 detail were realized. Do you remember that?</p> <p>5 A. Uh-huh (affirmative).</p> <p>6 Q. And I think you testified that you rely</p> <p>7 on the agencies to provide you that information,</p> <p>8 correct?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Okay. In determining your -- doing</p> <p>11 your critical needs analysis, do you take into</p> <p>12 account the amount of special funds that are set</p> <p>13 forth in the budget request in combination with</p> <p>14 the general funds?</p> <p>15 A. In looking at the critical needs, we</p> <p>16 do.</p> <p>17 Q. And isn't it true that if you lose a</p> <p>18 certain amount of general funds, it would be --</p> <p>19 make it harder, in essence, to get the special</p> <p>20 funds -- withdrawn. Withdrawn.</p> <p>21 Isn't it true that if you have a cut to</p> <p>22 your general funds that, in essence, you're going</p> <p>23 to be losing out on the opportunity to get a</p> <p>24 special fund federal match?</p> <p>25 A. If those state general funds or general</p>	<p style="text-align: right;">Page 157</p> <p>1 fixed pot of limited state general funds. Am I</p> <p>2 getting the character of it right?</p> <p>3 A. Uh-huh (affirmative).</p> <p>4 Q. And my question to you is, well, isn't</p> <p>5 the division of this limited pot of state general</p> <p>6 funds part of your recommendations to the</p> <p>7 Governor's policy advisors prior to the</p> <p>8 submission of the Governor's budget</p> <p>9 recommendation?</p> <p>10 A. Yes. We made recommendations about --</p> <p>11 based upon the initial estimate that he publishes</p> <p>12 in November and the legislature publishes in</p> <p>13 December. However, between the time of the</p> <p>14 original revenue estimate and the time the</p> <p>15 legislature convenes, things can change and the</p> <p>16 pot can change.</p> <p>17 Q. I understand that. But just in regard</p> <p>18 to what agencies are going to get what levels of</p> <p>19 funding, you've taken into account the nature of</p> <p>20 the agency and their critical needs, correct?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Okay. So to the extent that the state</p> <p>23 is operating under some fixed amount of general</p> <p>24 funds -- which they are every year, and it's just</p> <p>25 an estimate -- you've taken into account the</p>